

REMARKS/ARGUMENTS

Applicants thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe the subject matter that Applicants regard as the invention, and to correct minor grammatical errors. Applicant respectfully submits that the present application is in a condition for allowance in view of the following remarks.

Claim Rejections – 35 U.S.C. § 112, ¶2

The limitations “said first base station” and “said second base station” have been rejected due to insufficient antecedent basis for these limitations. To this end, applicants have amended these limitations in claim 1 to correct this oversight.

Claim Rejections – 35 U.S.C. § 103(a)

Claims 1-3 and 5-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,940,452 to Rich (hereinafter “Rich”). For the following reasons, the rejection is respectfully traversed.

With regard to claims 1 and 5, Rich fails to teach or suggest that “the first base station information is included in the signal which is sent from the first base station and received at said first antenna,” and that “the second base station information is included in the signal which is sent from the second base station and received at said second antenna,” as claimed in claims 1 and 5. Instead, the only significance of the signal received at the antennas for controlling selection of the antenna in Rich is the received signal strength, which is used to select the proper

antenna. Col. 22, line 56 – col. 23, line 24; and col. 24, lines 56-60. Rich does not mention the inclusion of any type of base station information in the received signal having a strength evaluated to select the proper antenna.

Further with regard to claim 1, Rich also fails to teach or suggest “an antenna selection unit for selecting one of said first antenna and second antenna at a higher received field strength based on the first received field strength of the signal including the first base station information and the second received field strength of the signal including the second base station information.” Again, Rich fails to disclose the inclusion of base station information in the received signal, the strength of which is evaluated to select the proper antenna. Since there is no base station information in the received signal, any antenna selection unit of Rich can not select one of the first and second antennas based on the received field strength of a signal including base station information. In contrast, Rich makes it clear that a controller controls the selection of an antenna as a function of the received field strength alone (either as a ratio of a coded signal to the received signal strength of all received signals, or as an integration of the received signal strength). Col. 4, lines 37-42; col. 24, lines 56-60. Thus, it would not have been obvious to one of ordinary skill in the art to modify Rich according to the teachings therein to arrive at the invention claimed in amended claim 1.

Further with regard to claim 5, applicants respectfully submit that Rich fails to teach or suggest “selecting one of said first antenna and said second antenna at a higher received field strength based on the first received field strength of the signal including the first base station information and the second received field strength of the signal including the second base station information.” For reasons analogous to those discussed above with regard to claim 1, Rich fails

to teach evaluating the strength of a received signal that includes base station information to select the proper antenna. Rich does not make any reference to acquiring any base station information, or to selecting the antenna based on the received field strength of the received signal that includes such base station information, as claimed in claim 5. Thus, it would not have been obvious to one of ordinary skill in the art to modify Rich according to the teachings therein to arrive at the invention claimed in amended claim 1.

Therefore, for at least the above reasons, it is respectfully submitted that a *prima facie* case of obviousness has not been established as required to support an obviousness rejection under 35 U.S.C. §103(a), and applicants respectfully submit that claims 1 and 5 are patentable over Rich.

The remaining claims in the present application, specifically claims 2, 3, 6 and 7 are allowable for the limitations therein and for the limitations of the claims from which they depend.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

Appl. No. 10/758,170
Amdt. Dated January 11, 2008
Reply to Office action of September 11, 2007

PATENT AF
RESPONSE UNDER 37 C.F.R. §1.116
EXPEDITED PROCEDURE
ART UNIT: 2611

If there are any fees resulting from this communication, please charge same to our

Deposit Account No. 16-0820, our Order No. NGB 36375.

Respectfully submitted,
PEARNE & GORDON LLP

By: /donald j. firca, jr./
Donald J. Firca, Jr., Reg. No. 48,140

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

January 11, 2008